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8 **UNITED STATES DISTRICT COURT**  
9 **DISTRICT OF NEVADA**

10 FRANCISCO ALVAREZ,

11 Petitioner,

12 vs.

13 WILLIAM HUTCHINGS, *et al.*,

14 Respondents.  
15

Case No. 2:20-cv-01894-KJD-VCF

**MOTION FOR LEAVE TO FILE EXHIBIT  
UNDER SEAL**

16 Respondents move for leave to file under seal Exhibit 32 in support of Respondents' Motion to  
17 Dismiss to Alvarez's Petition for Writ of Habeas Corpus. This motion is based upon the following points  
18 and authorities, as well as all pleadings, documents, and exhibits on file in this matter.

19 DATED this 5<sup>th</sup> day of May 2021.

20 AARON D. FORD  
Attorney General

21 By: /s/ Trisha Chapman  
22 Trisha Chapman  
23 Deputy Attorney General  
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1 **MEMORANDUM OF POINTS & AUTHORITIES**

2 While there is a presumption favoring public access to judicial filings and documents, *see Nixon*  
3 *v. Warner Communications, Inc.*, 435 U.S. 589, 597 (1978), a party seeking to seal a judicial record may  
4 overcome the presumption by demonstrating “compelling reasons” that outweigh the public policies  
5 favoring disclosure, *Kamakana v. City and County of Honolulu*, 447 F.3d 1172, 1178-79 (9th Cir. 2006)  
6 (citations omitted). In general, “compelling reasons” exist where the records may be used for improper  
7 purposes. *Kamakana*, 447 F.3d at 1179 (citing *Nixon*, 435 U.S. at 598). As a result, Respondents seek  
8 leave to file under seal the following exhibit:

9 **Exhibit 32 – Presentence Investigation Report (09/22/15)<sup>1</sup>**

10 Alvarez’s Presentence Investigation Report (PSI) is submitted as part of the state court record  
11 accompanying Respondents’ Motion to Dismiss Alvarez’s Petition and it contains confidential  
12 information, such as Alvarez’s identifiers, and his social security number. Pursuant to NEV. REV. STAT.  
13 176.156(5), the contents of a presentence investigation report are confidential and must not be made a  
14 part of any public record. Because the state court never made the above-referenced pleading a part of the  
15 public record, Respondents wish to comply with the Nevada statute and the actions of the state court  
16 regarding the continued confidentiality of this document. Accordingly, there are “compelling reasons” to  
17 seal the PSI in this case.


18 For these reasons, Respondents request that Exhibit 32 be filed under seal.

19 DATED May 5, 2021.

20 AARON D. FORD  
21 Attorney General

22 By: /s/ Trisha Chapman  
23 Trisha Chapman  
Deputy Attorney General

24 Dated: 5/7/2021

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Kent J. Dawson, U.S. District Judge

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<sup>1</sup> Exhibit numbered consistent with Respondents’ Index of Exhibits in Support of its Motion to Dismiss Alvarez’s Petition for Writ of Habeas Corpus (ECF No. 16).

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that I electronically filed the foregoing *Respondents' Motion for Leave to File*  
3 *Exhibit Under Seal* with the Clerk of the Court by using the CM/ECF system on May 5, 2021.

4 I certify that some of the participants in the case are not registered CM/ECF users. I will cause  
5 the foregoing document to be mailed by First-Class Mail, postage prepaid, or have dispatched it to a  
6 third-party commercial carrier for delivery on or about May 6, 2021 to the following non-CM/ECF  
7 participants:

8 Francisco Alvarez, #1147691  
9 c/o Southern Desert Correctional Center  
P.O. Box 208  
10 Indian Springs, NV 89070

11 By: /s/ M. Landreth  
12 An employee of the Office of the Attorney General  
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